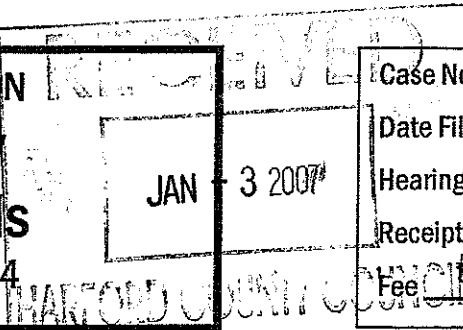


STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014



Case No. 5588
Date Filed 12/29/06
Hearing Date _____
Receipt _____
Fee \$450

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
☐ Special Exception
☐ Use Variance
☐ Change/Extension of Non-Conforming Use
☐ Minor Area Variance
☐ Area Variance
☐ Variance from Requirements of the Code
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 5588 MAP 56 TYPE Variance

ELECTION DISTRICT 01 LOCATION 2619 Smallwood Drive, Abingdon

BY Ken Freebairn

Appealed because a variance pursuant to Section 267-41D5(d) of the Harford County

Code to disturb the Natural Resource District in the R1 District requires approval by the

Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name KEN FREEBAIRN Phone Number 443-421-1378
Address 2619 SMALLWOOD DR. ABINGDON MD 21009
Street Number Street City State Zip Code

Co-Applicant ELLIS DIAZ Phone Number 443-243-0599
Address 2621 SMALLWOOD DR. ABINGDON MD 21009
Street Number Street City State Zip Code

Contract Purchaser J.K. BUILDING INC Phone Number _____
Address 4120 GLACIATION RD PYLESVILLE MD 21132
Street Number Street City State Zip Code

Attorney/Representative N/A. Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2619 SMALLWOOD DR, ABINGDON,
MD, 21009

Subdivision OVERVIEW MANOR

Lot Number 48

Acreage/Lot Size .875 Election District 01

Zoning R1/COSNRD ADU

Tax Map No. SEE ATTACHED Grid No. 3F Parcel Water/Sewer: Private ☐ Public ☒

List ALL structures on property and current use: ORIGINAL DWELLING

Estimated time required to present case: 30 MIN.

If this Appeal is in reference to a Building Permit, state number

Would approval of this petition violate the covenants and restrictions for your property? NO

Is this property located within the County's Chesapeake Bay Critical Area? Yes ☐ No ☒

If so, what is the Critical Area Land Use designations: N/A.

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒

Is this request within one (1) mile of any incorporated town limits? Yes ☐ No ☒

Request

TO FILL AND GRADE EXISTING PROPERTY, SPECIFICALLY
BACK YARD, WHICH IS IN THE NATURAL
RESOURCE DISTRICT.

Justification

STOP PRESENT FLOODING OF MY PROPERTY AS WELL
AS THE NEIGHBOURS

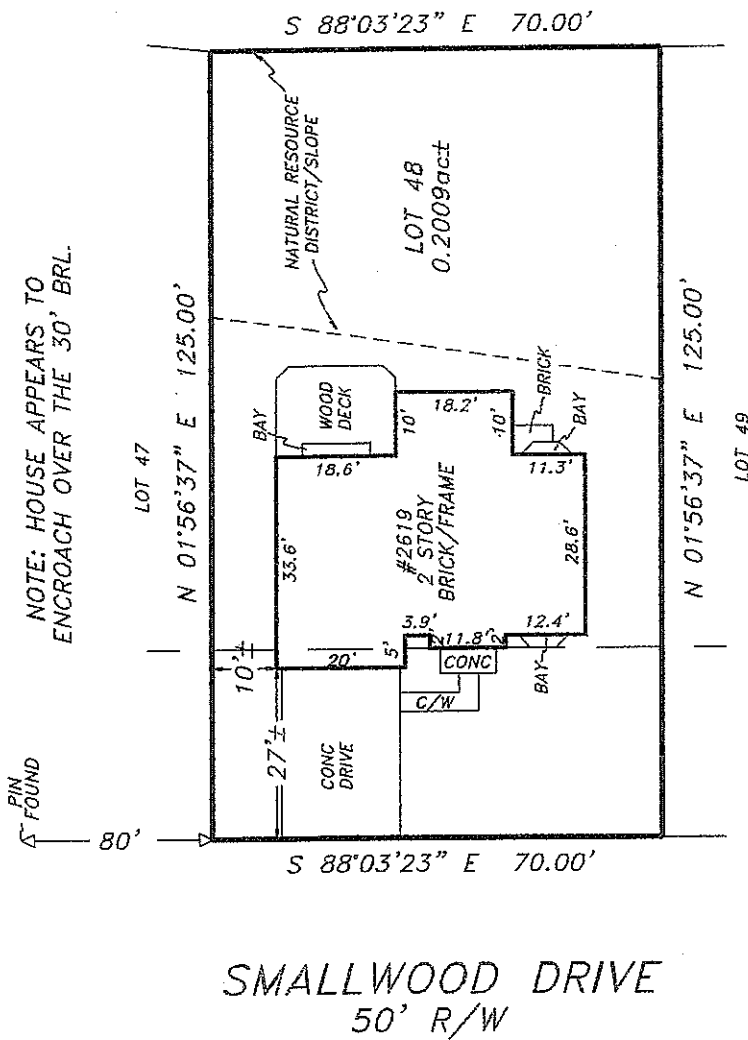
TWO OF MY GRANDCHILDREN HAVE FELL, AND HURT
THEMSELVES AS THE HILL IS SO STEEP.

THE BACK IS UNUSABLE, WE WILL PLANT GRASS AND
TREES AS WE LOVE BIRDS.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

NOTES:

- 1) B.R.L. information, if shown, was obtained from existing record plat or local agencies and is not guaranteed by NTT, Inc.
- 2) Building line and/or Flood Zone information is subject to the interpretation of the original.
- 3) NTT, Inc. does not certify to unshown or unrecorded encroachments or overlaps.
- 4) Property markers NOT found, or guaranteed by this location.
- 5) Setback distance accuracy: $1 \pm$



Subject property is shown in Zone X on the FIRM Map of Harford County, Maryland on Community Panel 2400 25C 0256 D Effective JANUARY 7, 2000

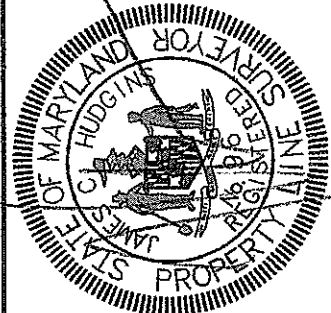
This is to certify that I have surveyed the property shown hereon, being known as LOT 48 PLAT 2 "OVERVIEW MANOR" and recorded among the land records of HARFORD County, Maryland in Plat 65, folio 5 for the purpose of locating the improvements thereon.

* This plat is of benefit to the consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing, or refinancing purposes.
* This plat is not to be relied upon for the establishment of location of fences, garages, buildings, or other existing or future structures.
* This plat does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or for securing financing or refinancing.

LOCATION DRAWING
2619 SMALLWOOD DRIVE
1st ELECTION DISTRICT
HARFORD COUNTY, MARYLAND

NTT Associates, Inc.
16205 Old Frederick Road
Mt. Airy, Maryland 21771
Ph. (410)442-2031
Fax No. (410)442-1315

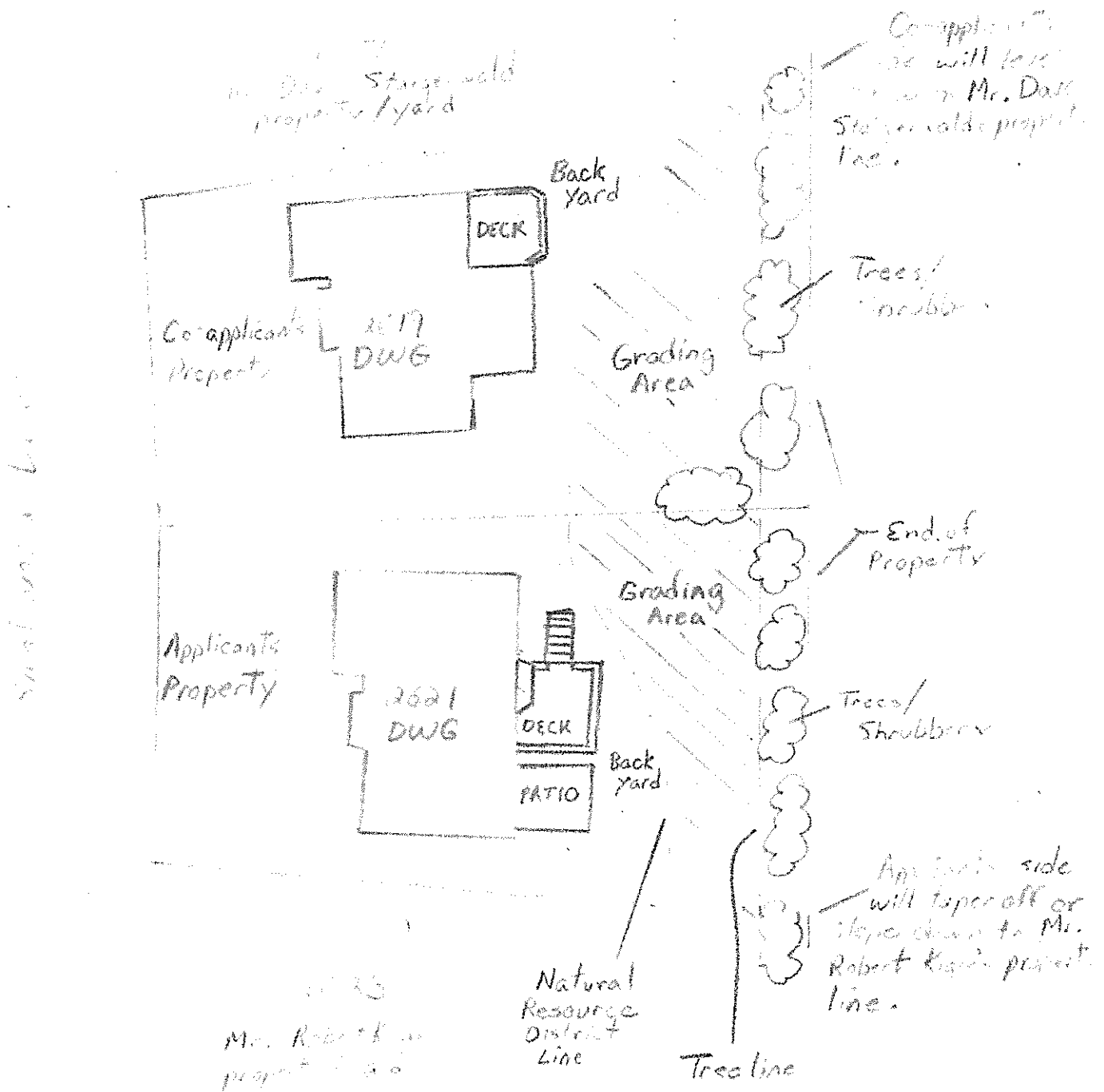
Scale: 1" = 30'
Date: 3/1/06
Field By: DBM
Drawn By: DBM
Drawing # 90605031



J. Carl Huggins PLS #96

SKETCH #1

7621 + 7619 Smatherswood Dr.
Abingdon MD 21009



Planning to grade
from slope to tree
line. Approximately
30 to 50 feet.

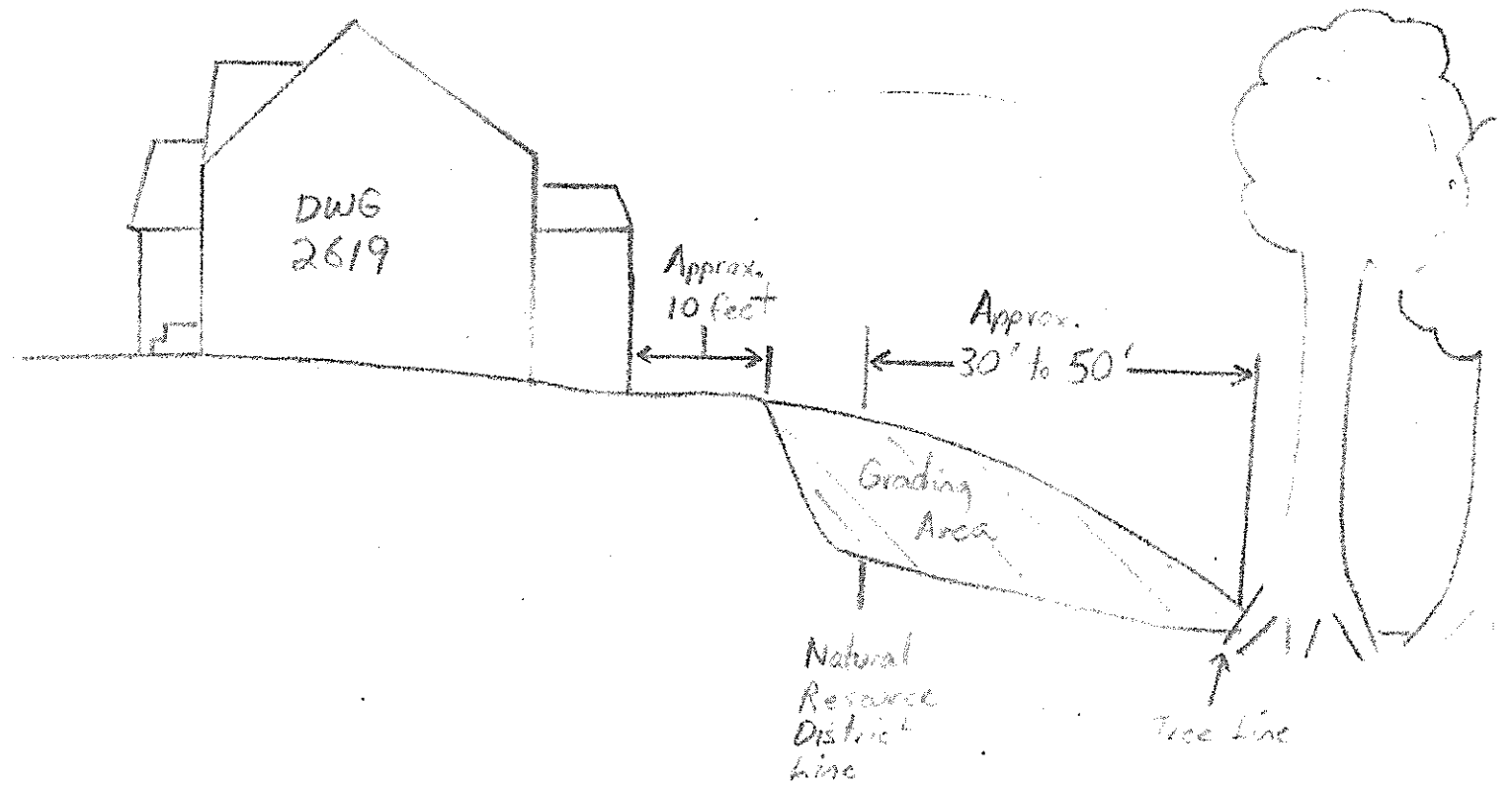
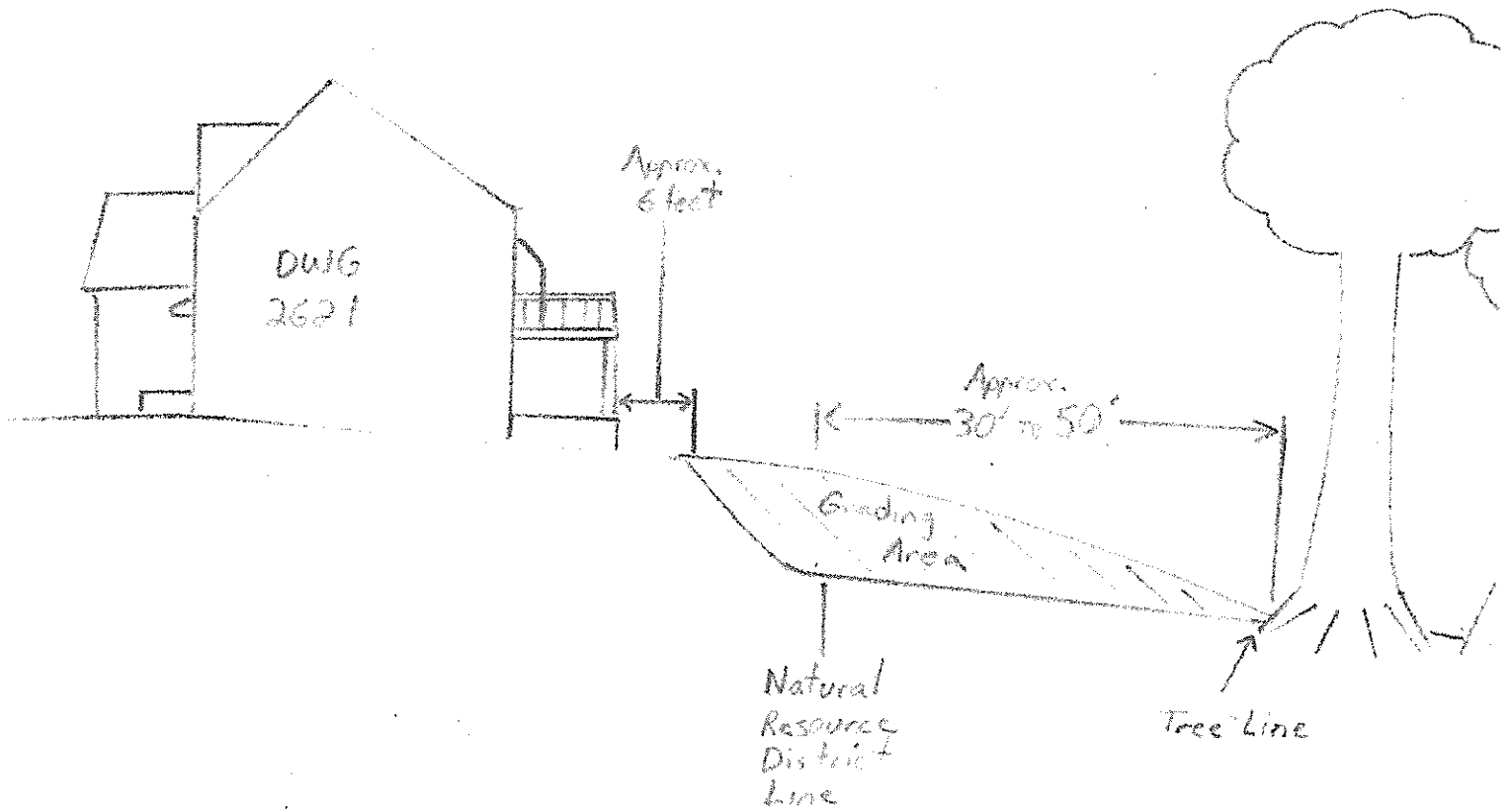


= Areas to be graded
and/or filled (approx.)



= Trees/shrubbery

SKETCH #2 (SIDE VIEW)



DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

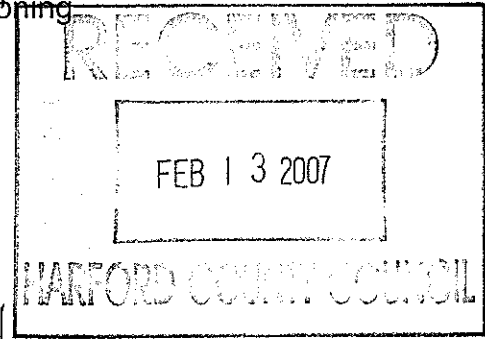
HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

February 1, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 5588



APPLICANT/OWNER: Ken Freebairn
2619 Smallwood Drive, Abingdon, Maryland 21009

Co-APPLICANT: Ellis Diaz
2621 Smallwood Drive, Abingdon, Maryland 21009

CONTRACTOR: J.K. Building Inc.
4120 Graceton Road, Pylesville, Maryland 21132

REPRESENTATIVE: Applicants

LOCATION: 2619 Smallwood Drive – Overview Manor
Tax Map: 56 / Grid: 3F / Parcel: 423 / Lot: 48
Election District: First (1)

ACREAGE: 0.875 acres

ZONING: R1/Urban Residential District/Conventional with Open Space
(R1/COS)

DATE FILED: December 29, 2006

HEARING DATE: February 28, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

“To fill and grade existing property, specifically back yard, which is in the Natural Resource District.”

~ Preserving Harford's past; promoting Harford's future ~

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

STAFF REPORT

Board of Appeals Case Number 5588

Ken Freebairn

Page 2 of 4

Justification:

"Stop present eroding of my property as well as the neighbors. Two of grandchildren have fell and hurt themselves as the hill is to steep. The back is unusable. We will plant grass and trees as we love birds."

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-41D5(d) of the Harford County Code to disturb the Natural Resource District in the R1/Urban Residential District/Conventional with Open Space.

Section 267-415(d) of the Harford County Code reads:

- (5) *Conservation requirements. The following conservation measures are required within this district:*
- (d) *Any land in excess of twenty-five slope for an area of forty thousand (40,000) square feet or more shall not be cleared of natural ground cover or vegetation in preparation for development, except for necessary road and utilities. Not more than thirty percent (30%) of any land in excess of fifteen percent (15%) slope and less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.*

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is situated to the east side of Laurel Bush Road in the development of Overview Manor. The lot fronts on the north side of Smallwood Drive. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 1 and 2).

The subject property is located within the Development Envelope. The predominant land use designations in this area are Low and Medium Intensities. The Natural Features Map reflects Stream Systems and Sensitive Species Project Review Areas. The subject property is designated as Low Intensity on the 2004 Master Plan which is defined as:

***Low Intensity** – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are example of some of the nonresidential uses associated with this designation.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 3 and 4).

STAFF REPORT

Board of Appeals Case Number 5588

Ken Freebairn

Page 3 of 4

Land Use – Existing:

The existing land uses in this area are generally consistent with the overall intent of the Master Plan. Residential uses include single family dwellings and townhouses. Commercial uses are generally located along Emmorton Road (MD Route 924 and MD Route 24). The topography of the area ranges from rolling to steep especially near major stream valleys and their tributaries. Enclosed with the report is a copy of the topography map and the aerial photograph for the area (Attachments 5 and 6).

The subject property is rectangular in shape and approximately 0.875 acres in size. It backs up to a 20.5 acre area of open space (Attachment 7). The lot is basically level from the road to the front of the house. However, from the front of the house towards to rear the lot slopes sharply. It levels off somewhat for approximately 10 to 12 feet and then very sharply drops to the rear lot line and the woods. On the right side of the lot between the subject lot and 2621 (BOA Case 5581) there are steps in order to walk up and down from the lower portions of the lots. The open space area to the rear is densely wooded and very steep. The existing improvements consist of a brick and frame 2-story dwelling with an attached 2-car garage, concrete driveway, a deck off the rear of the dwelling, a very small patio in front of the basement door and a built in storage area under the deck. Site photographs are enclosed with the report along with an enlargement of the aerial photograph (Attachments 8 and 9).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes R1, R2 and R3/Urban Residential Districts. The subject property is zoned R1/Urban Residential District. The project was created under the Conventional with Open Space (COS) option. Enclosed with the report is a copy of the zoning map (Attachment 10).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-41D5(d) of the Harford County Code to disturb the Natural Resource District in the R1/Urban Residential District/Conventional with Open Space.

Section 267-415(d) of the Harford County Code reads:

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STAFF REPORT

Board of Appeals Case Number 5588

Ken Freebairn

Page 4 of 4

less than twenty-five percent (25%) slope shall be cleared of natural ground cover or vegetation in preparation for development.

Section 267-41D(6):

- (6) *Variances. The Board may grant a variance to Subsection D(3), (4) or (5) of the Natural Resources District regulations upon a finding by the Board that the proposed development will not adversely affect the Natural Resources District. Prior to rendering approval, the Board shall request advisory comments from the Zoning Administrator, the Soil Conservation Service and the Department of Natural Resources.*

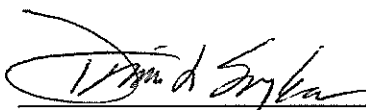
The Applicant is requesting approval to fill and grade in the rear yard, which is recorded as Natural Resource District. The Applicant has provided drawings showing the area that is to be graded (Attachment 11 and 12). The original grading of the lot and the lack of vegetation has caused an erosion problem. The requested variance will not adversely impact the Natural Resource District. If approved the Applicant shall submit a landscaping plan to be reviewed and approved by the Department of Planning and Zoning.

The Maryland Department of the Environment (MDE) was contacted to review the request and offer comments. In a letter dated November 27, 2006, they state that they have no comment on the proposal. A copy of their letter is attached (Attachment 13). The Soil Conservation District has not provided comments at this time.

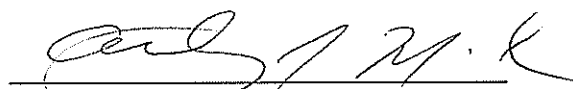
RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be approved subject to the following:

1. The Applicant shall obtain all necessary approvals and permits for the grading.
2. The Applicant shall submit a landscaping plan to be reviewed and approved by the Department of Planning and Zoning.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf